

and recommendations to the Assistant Secretary.

(2) Upon consideration of the Chief, DOE's recommendations, the Assistant Secretary may order a hearing to be conducted before an Administrative Law Judge duly assigned by him to receive evidence and arguments (i) on the applicability of section 401(h) of the Act to the labor organization involved, and (ii) on the question of whether its constitution and bylaws provide an adequate procedure for the removal of an elected union officer guilty of serious misconduct.

[29 FR 8264, July 1, 1964, as amended at 50 FR 31310, Aug. 1, 1985; 62 FR 6093, Feb. 10, 1997]

§ 417.5 Notice.

Notice of hearing shall be given not less than 10 days before such hearing is held unless the parties agree to a shorter notice period. Such notice shall be transmitted to the labor organization and the officer(s) accused of misconduct and other interested persons, insofar as they are known, and shall inform them of:

- (a) The time, place, and nature of the hearings;
- (b) The legal authority and jurisdiction under which the hearing is to be held; and
- (c) The matters of fact and law asserted.

The Labor organization shall inform its members of the provisions of the notice and copies of the notice shall be made available for inspection at the offices of the labor organization.

§ 417.6 Powers of Administrative Law Judge.

The designated Administrative Law Judge shall have authority:

- (a) To give notice concerning and to conduct hearings;
- (b) To administer oaths and affirmations;
- (c) To issue subpoenas;
- (d) To rule upon offers of proof and receive relevant evidence;
- (e) To take or cause depositions to be taken whenever the ends of justice would be served thereby;
- (f) To regulate the course of the hearing;

(g) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(h) To dispose of procedural requests or other matters;

(i) To limit the number of witnesses at hearings, or limit or exclude evidence or testimony which may be irrelevant, immaterial, or cumulative;

(j) If appropriate or necessary to exclude persons or counsel from participation in hearings for refusing any proper request for information or documentary evidence, or for contumacious conduct;

(k) To grant continuances or reschedule hearings for good cause shown;

(l) To consider and decide procedural matters;

(m) To take any other actions authorized by the regulations in this part.

The Administrative Law Judge's authority in the case shall terminate upon his filing of the record and his initial decision with the Assistant Secretary, or when he shall have withdrawn from the case upon considering himself disqualified, or upon termination of his authority by the Assistant Secretary for good cause stated. However, the Administrative Law Judge's authority may be reinstated upon referral of some or all the issues by the Assistant Secretary for rehearing. This authority will terminate upon certification of the rehearing record to the Assistant Secretary.

§ 417.7 Transcript.

An official reporter shall make the only official transcript of the proceedings. Copies of the official transcript shall be made available upon request addressed to the Assistant Secretary in accordance with the provisions of part 70 of this title.

[50 FR 31310, Aug. 1, 1985, as amended at 63 FR 33779, June 19, 1998]

§ 417.8 Appearances.

The Department of Labor does not maintain a register of persons or attorneys who may participate at hearings. Any interested person may appear and be heard in person or be represented by counsel.